

**United States District Court  
Eastern District of Missouri  
Eastern Division**

reFX Audio Software, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 4:12-CV-02093  
 )  
 James Town et al )  
 )  
 Defendant )

**Answer of Defendant**  
**James Town**

The Defendant, James Town, makes the following Answer and Affirmative Defenses to the Complaint of the Plaintiff.

1. James Town (hereinafter Town) admits the allegations of paragraphs 1 and 2 of the Complaint.

2. Answering paragraph 3, Town admits that this Court has jurisdiction over him. Town further states that with regard to the remaining allegations of said paragraph 3 that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

3. Town denies the allegations of paragraphs 4, 5 and 6.

4. With regard to the allegations of paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, Town denies that he downloaded any software product owned by Plaintiff. With regard to the remaining allegations of said paragraphs Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

5. With regard to the allegations of paragraphs 20, 21, 22, and 23, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

6. Town admits the allegations of paragraph 24.

7. With regard to the allegations of paragraphs 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, Town denies that he was a participant in any type of collective activity with any of the named and unnamed Defendants. As to the other allegations of these paragraphs Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

8. With regard to the allegations of paragraphs 37 and 38, Town denies that the Plaintiff or its agents ever attempted to contact him or sent him any documents. As to the other allegations of paragraphs 37 and 38, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

9. With regard to the allegations of paragraphs 39 through 74, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 39 through 74, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**COUNT I**

10. Answering paragraph 75, Town restates, as if set forth verbatim, his prior responses to paragraphs 1 through 74.

11. Answering paragraphs 76 through 82, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 76 through 82, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**COUNT II**

12. Answering paragraph 83, Town restates, as if set forth verbatim, his prior responses to paragraphs 1 through 82.

13. Answering paragraphs 84 through 92, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 84 through 92, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**COUNT III**

14. Answering paragraph 93, Town restates, as if set forth verbatim, his prior responses to paragraphs 1 through 92.

15. Answering paragraphs 94 through 101, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 94 through 101, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**COUNT IV**

16. Answering paragraph 102, Town restates, as if set forth verbatim, his prior responses to paragraphs 1 through 101.

17. Answering paragraphs 103 through 110, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 103 through 110, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**COUNT V**

18. Answering paragraph 111, Town restates, as if set forth verbatim, his prior responses to paragraphs 1 through 110.

19. Answering paragraphs 112 through 118, Town denies that he personally undertook any of the actions described in said paragraphs. As to the other allegations contained in paragraphs 112 through 118, Town states that he is without knowledge or information sufficient to form a belief as to the truth or falsity of these allegations and therefore denies same.

**Affirmative Defenses**

20. The Complaint, and each Count thereof, fails to state a cause of action as a matter of both law and fact.

21. The Plaintiff is barred from any relief by reason of its unclean hands in that there are similar companies selling similar software with very similar capabilities and using names similar to that of the Plaintiff which may or may not infringe upon the purported intellectual property of which Plaintiff claims ownership. As a result of the failure of Plaintiff to defend its purported ownership rights in its property and to challenge others' infringement of that property it cannot enforce its claims in this lawsuit.

22. Upon information and belief, the Plaintiff is not the real party in interest in this case.

WHEREFORE, defendant James Town prays that this Court after a trial on the merits, before a jury, enter Judgment in his favor as to all Counts of the Complaint, award him costs, and if allowed by law his attorneys' fees, and such other relief as this Court deems just and equitable in the circumstances

Respectfully submitted,

/s/ J. Richard McEachern  
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Attorney for Defendant James Town

**Certificate of Service**

A true copy of the foregoing was served this 15th day of November, 2013 upon Plaintiff's counsel through this Court's electronic filing system.

/s/ J. Richard McEachern